

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HELEN A. RUNGE,	:	
Plaintiff	:	
	:	No. 05-10849-RGS
v.	:	(Judge Stearns)
	:	
WALTER J. KELLY, et al.	:	CIVIL ACTION
Defendants	:	JURY TRIAL DEMANDED

MOTION FOR SUBSTITUTION OF PLAINTIFF

AND NOW COMES Dorothy Stanley ("Stanley"), Executrix of the Estate of Helen A. Runge ("Runge"), by and through her counsel, and moves the Court for an order substituting herself as Plaintiff and providing for the continuance of the action. In support of this Motion, Stanley states the following:

1. On April 27, 2005, Runge filed her original Complaint, pleading counts sounding both in federal and state law.
2. By this Court's Order dated January 23, 2006, the federal law claims were dismissed; jurisdiction remains with this Court due to diversity.
3. By Court Order entered July 28, 2006, Plaintiff was permitted to file an Amended Complaint, which Plaintiff filed on August 7, 2006.
4. By Court Order entered January 5, 2007, Plaintiff was permitted to file her Second Amended Complaint, which Plaintiff filed on January 8, 2007.

5. On January 15, 2007, Runge died leaving a last will and testament. The will was duly admitted to probate on January 29, 2007 in the General Court of Justice, Superior Court Division of North Carolina.

6. On January 29, 2007, letters testamentary were issued to Stanley who began acting and is still acting as executrix for Runge's estate.

7. On January 29, 2007, the death of Runge was suggested on the record pursuant to Federal Rule of Civil Procedure 25(a)(1).

8. The claims of deceased Plaintiff, Helen A. Runge, against Defendants have survived her death.

WHEREFORE, Plaintiff, Helen A. Runge, respectfully requests that this Honorable Court grant the Motion for Substitution of Plaintiff and substitute Stanley as Plaintiff in this matter.

Respectfully submitted,

LATSHA DAVIS YOHE & MCKENNA, P.C.

Dated: March 23, 2007

By /s/ Glenn R. Davis
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Attorneys for Plaintiff, Helen A. Runge

and Dorothy Stanley, Executrix of the Estate of
Helen A. Runge

LOCAL RULE 7.1 CERTIFICATION

I, Glenn R. Davis, counsel for Plaintiff, Helen A. Runge, certify that we have contacted counsel for Defendant Walter J. Kelly, Kerry L. Bloomingdale, M.D. and Sunbridge Nursing and Rehabilitation Center regarding this Motion for Substitution of Plaintiff. Counsel for Defendant Bloomingdale concurs with this Motion. Counsel for Defendants Kelly and Sunbridge have not provided their positions, whether it be concurrence or nonconcurrence with the presentation of this Motion.

Dated: March 23, 2007

/s/ Glenn R. Davis

Glenn R. Davis

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing document was served upon the attorney of record for each party by electronic transmission.

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Dated: March 23, 2007

/s/ Glenn R. Davis

Glenn R. Davis

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ORDER

AND NOW, this _____ day of _____, 2007,
upon consideration of Plaintiff's Motion for Substitution of Plaintiff, it is hereby
ORDERED and DECREED that said Motion is GRANTED.

BY THE COURT:

Richard C. Stearns, J.